

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

VALERIE LEMASTER,

Plaintiff,

Civil No. 17-5101 (JRT/DTS)

v.

**ORDER DENYING PLAINTIFF'S
MOTION FOR TEMPORARY
RESTRAINING ORDER**

DITECH FINANCIAL LLC, *f/k/a Green
Tree Servicing, LLC*, FEDERAL
NATIONAL MORTGAGE
ASSOCIATION, and CONSUMER
FINANCIAL PROTECTION BUREAU,

Defendants.

Plaintiff Valerie LeMaster brought this action against Ditech Financial LLC, the Federal National Mortgage Association (“Fannie Mae”), and the Consumer Financial Protection Bureau. Starting in 2014, Ditech and Fannie Mae were involved in foreclosure- and eviction-related litigation against LeMaster in Minnesota state court. Although LeMaster was permitted to remain in her home during those proceedings, Ditech and Fannie Mae have prevailed, and LeMaster has exhausted her appeals. LeMaster claims that her eviction is “imminent.”

In this action in federal court, LeMaster alleges that each defendant breached a 2015 Consent Order resolving an action brought by the Federal Trade Commission and CFPB against Ditech for various alleged violations of federal consumer-protection laws. The Consent Order was not related to LeMaster or the aforementioned state-court proceedings,

and LeMaster was not a party to the Consent Order. The CFPB moved to dismiss this action for lack of standing, arguing that LeMaster is not a third-party beneficiary of the Consent Order. The Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that the CFPB’s motion be granted and that LeMaster’s remaining claims that are only in federal court on supplemental jurisdiction be dismissed without prejudice. (R&R, June 29, 2018, Docket No. 67.)

LeMaster’s moves for a temporary restraining order, asking the Court to stay any further state foreclosure/eviction proceedings until the Court has disposed of the R&R. The Court will deny LeMaster’s motion. LeMaster fails to show a likelihood of success on the merits – indeed, the record strongly suggests that LeMaster lacks standing because she is not a party to the Consent Order. *Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 958 (8th Cir. 2002). LeMaster also fails to show that she would be irreparably harmed given that she has been fighting her foreclosure and eviction for over four years. Moreover, the public interest and balance of harms do not weigh in favor of issuing a temporary restraining order.

Therefore, based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Plaintiff’s First Motion for Temporary Restraining Order [Docket No. 72] is **DENIED**.

DATED: July 18, 2018
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court